

RECEIVED

06 AUG 24 PM 4:21

OFFICE OF THE SECRETARY  
FEDERAL MARITIME COMM

Original Title Page

HSDG/ALIANÇA/CMA CGM SPACE CHARTER AGREEMENT

A Space Charter Agreement

FMC Agreement No. 011972

Expiration Date: None

This Agreement has not been published previously.

TABLE OF CONTENTS

<u>Article</u>	<u>Name</u>	<u>Page No.</u>
1	Name of the Agreement	1
2	Purpose of the Agreement	1
3	Parties to the Agreement	1
4	Geographic Scope	2
5	Agreement Authority	2
6	Administration and Delegation of Authority	4
7	Effectiveness, Duration and Termination	4
8	Voting	5
9	Assignment	5
10	Law and Arbitration	5
11	Force Majeure	6
12	Language	7
13	Notices	7
14	Enforceability	7
15	Disclaimer of Partnership	7
16	Separate Identity	8
17	Counterparts	8
	Signature Page	

ARTICLE 1: NAME OF THE AGREEMENT

The name of this agreement is the HSDG/ALIANÇA/CMA CGM Space Charter Agreement (the "Agreement").

ARTICLE 2: PURPOSE OF THE AGREEMENT

The purpose of the Agreement is to authorise HSDG/Aliança to charter space to CMA CGM in the Trade (as hereinafter defined).

ARTICLE 3: PARTIES TO THE AGREEMENT

The parties to the Agreement are as follows:

1. (a) Hamburg Südamerikanische Dampfschiffahrts-Gesellschaft KG ("HSDG")

Address: Willy-Brandt Strasse, 59  
20457 Hamburg, Germany

- (b) Aliança Navegação e Logística Ltda. e CIA ("Aliança")

Address: Rua Verbo Divino 1.547  
CEP 04719-002  
São Paulo – S.P., Brazil

2. CMA CGM S.A. ("CMA CGM")

Address: 4, Quai D'Arenc  
P.O. Box 2409  
13125 Marseilles Cedex 02

The foregoing are sometimes referred to individually as a "Party" and jointly as the "Parties."

ARTICLE 4: GEOGRAPHIC SCOPE

The scope of the Agreement shall be the trade between ports on the U.S. East Coast (Eastport, Maine to Key West, FL range) and inland and coastal points served via such ports, on the one hand, and ports in Brazil and Venezuela and inland and coastal points served via such ports, on the other hand (the "Trade").

ARTICLE 5: AGREEMENT AUTHORITY

5.1 HSDG/Aliança shall charter to CMA CGM, and CMA CGM shall purchase from HSDG/Aliança, space for 350 TEUs (at 12 tons per TEU) on each sailing of the vessels operated by CSAV in the Trade, which HSDG/Aliança receive pursuant to FMC Agreement No. 011938. The aforementioned space shall be chartered in exchange for such charter hire, and on such other terms and conditions, as the Parties may agree from time to time.

5.2 In the event that FMC Agreement No. 011938 is terminated during the initial 18-month period of this Agreement, HSDG/Aliança shall charter space up to 350 TEUs (at 12 tons per TEU) to CMA CGM (exact quantity at CMA CGM's option only) on vessels operated by HSDG/Aliança in the Trade for the portion of the initial 18-month period remaining as of the date of the termination of FMC Agreement No. 011938; provided, however, that unless the Parties mutually agree otherwise, CMA CGM may only utilize space made available to it on HSDG/Aliança vessels pursuant to this Article 5.2 to move cargo to/from ports that were served by the CSAV vessels operated under FMC Agreement No. 011938 at the time that agreement was terminated. It is also agreed that, in the event that the port coverage changes or is reduced, CMA CGM will have the option but not the obligation to reduce the space chartered by it from HSDG/Aliança.

5.3 CMA CGM may use space made available to it under this Agreement to transport transshipment cargo moving from origins and/or to destinations beyond the geographic scope of this Agreement whether moving on a through bill of lading or otherwise.

5.4 This Agreement is non exclusive and CMA CGM shall be free to carry cargo within the geographic scope of this Agreement, on other service(s) operating within the trade.

5.5 CMA CGM may not sub-charter space made available to it hereunder to third party shipping lines without the prior written consent of HSDG/Aliaça. Notwithstanding the aforementioned it is agreed that CMA-CGM may, at its own discretion, sub-charter space to any of its subsidiaries or affiliated companies.

5.6 HSDG/Aliaça shall provide CMA CGM with not less than thirty (30) days advance written notice of any permanent change in port calls or port rotation with respect to the service on which CMA CGM receives space. In the event that a port or port(s) is permanently withdrawn from the service, then CMA CGM will be entitled, but not obliged, to reduce its chartered space, based on performance to / from the port involved (basis 5 most recent performed calls) .

5.7 The Parties are authorized to discuss and agree on the joint and/or individual negotiation of appropriate contracts with terminal operators and stevedores, and to reach agreement on other issues relating to the loading and/or discharge of cargo.

5.8 The Parties are authorized to discuss and agree on routine matters such as cargo claims and other liabilities, indemnifications, general average, a cross

charter party, joint working procedures, standards for containers and for the acceptance of oversized and dangerous cargo, and other operational/administrative issues to implement the terms hereof.

5.9 Pursuant to 46 C.F.R. §535.408(b), any further agreement between the Parties, other than those covered by the aforementioned regulation, will not be implemented unless such agreement has been filed and become effective under the Shipping Act of 1984, as amended.

ARTICLE 6: ADMINISTRATION AND DELEGATION OF AUTHORITY

6.1 This Agreement shall be administered and implemented by meetings, decisions, memoranda and communications between the Parties.

6.2 The following individuals shall have the authority to file this Agreement and any modifications thereto with the Federal Maritime Commission, as well as the authority to delegate same:

- (a) Any authorised officer of each of the Parties; and
- (b) Legal counsel for each of the Parties.

ARTICLE 7: EFFECTIVENESS, DURATION AND TERMINATION

7.1 This Agreement will take effect when effective in accordance with the provisions of the Shipping Act of 1984, as amended (the "Effective Date"), and will continue indefinitely thereafter.

7.2 Any Party may withdraw from this Agreement by giving not less than six (6) months written notice of withdrawal; provided, however, that such notice may not be given prior to twelve (12) months after the Effective Date, to come into effect not earlier than eighteen (18) months after the Effective Date.

7.3 Should CMA CGM at any time during the term of this Agreement commence a service within the scope of this Agreement, with direct call(s) at one or more of the ports of the US East Coast already called by the service under this Agreement, either alone or pursuant to a space charter, vessel sharing or other agreement with one or more other ocean common carriers, Hamburg Süd may terminate this Agreement by giving not less than three (3) months written notice of termination to CMA CGM. For the avoidance of doubt, Hamburg Süd may not terminate this Agreement pursuant to this Article 7.3 if CMA CGM commences a service to/from one or more US East Coast ports other than those already called by the service under this Agreement and/or to/from any South America port.

ARTICLE 8: VOTING

All decisions hereunder shall require the mutual agreement of the Parties.

ARTICLE 9: ASSIGNMENT

No Party may assign all or part of its rights and obligations under this Agreement without the written consent of the other Parties.

ARTICLE 10: LAW AND ARBITRATION

10.1 This Agreement shall be governed by and construed in accordance with the laws of the State of New York; provided, however, that nothing herein shall relieve the Parties of their obligation to comply with the U.S. Shipping Act of 1984, as amended.

10.2 All disputes or differences arising under this Agreement which cannot be amicably resolved shall be referred to arbitration in the New York/New Jersey

area before a single arbitrator in accordance with the procedural rules of the Society of Maritime Arbitrators, Inc. ("SMA").

10.3 The Parties to agree to appoint a single arbitrator within 21 days of any Party seeking an appointment. If the Parties are unable to agree on an arbitrator within the said 21 days, then the SMA President will appoint the arbitrator.

ARTICLE 11:      Force Majeure

11.1 In such circumstances as the event of war, whether declared or not, hostilities or the imminence thereof, act of public enemies, arrest or restraint of princes, rulers or people, or compliance with any compulsorily applicable law or governmental directive, boycott against flag, political ban or other events which render the Agreement wholly or substantially impracticable, the Agreement shall not thereby be terminated, but (subject always to the provisions of Article 7 hereof) the performance thereof shall be suspended (in whole or in part as appropriate) until such time as the performance thereof is again practicable, without prejudice to any rights, liabilities and obligations accrued at the date of suspension.

11.2 In the event that a Party considers that any cause, happening or event not within its control substantially impairs its ability to enjoy its rights or carry out its obligations under this Agreement then, at its request, the Parties shall meet together with all reasonable dispatch in order to consider such adjustment of the terms hereof as may be mutually acceptable.

ARTICLE 12:      LANGUAGE

This Agreement and all notices, communications or other writings relating hereto shall be in the English language and no Party shall have any obligation to translate such matter into any other language.

ARTICLE 13:      NOTICES

Any notice or other communication which one Party hereto may be required to give or to make to another under the Agreement shall, unless otherwise specifically provided herein, be written in English and sent by mail, e-mail, or facsimile with copy by mail, to the points of entry and addresses of the other Party as designated from time to time.

ARTICLE 14:      ENFORCEABILITY

If any provision of any clause in the Agreement, as presently stated or later amended or adopted, shall be held to be invalid, illegal or unenforceable in any jurisdiction in which this Agreement is operational, then this Agreement shall be invalid only to the extent of such invalidity, illegality or unenforceability and no further. All remaining provisions hereof shall remain binding and enforceable.

ARTICLE 15:      DISCLAIMER OF PARTNERSHIP

This Agreement is not intended to create a partnership, joint venture, agency, unincorporated association of any type, or joint liability under any jurisdiction.

ARTICLE 16:        SEPARATE IDENTITY

Each Party shall retain its separate identity and shall have separate sales, pricing and, to the extent applicable, separate marketing functions. Each Party shall issue its own bills of lading.

ARTICLE 17:        COUNTERPARTS

This Agreement may be executed and delivered by exchange of facsimile copies showing the signatures of each Party, and the original signatures need not be affixed to the same copy. The facsimile copies showing the signature of each Party will constitute original signed copies of the same Agreement requiring no further execution.

HSDG/ALIANÇA/CMA CGM Space Charter Agreement  
FMC Agreement No. 011972

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be  
executed by their duly authorized representatives as of this 31<sup>ST</sup> day of July, 2006.

HAMBURG SÜDAMERIKANISCHE DAMPFSCIFFFAHRTS-  
GESELLSCHAFT KG

By: 

Name:

Konrad

SCHMIT

Title:

Director

DIRECTOR

~~ALIANÇA NAVEGAÇÃO E LOGÍSTICA LTDA. E CIA~~

CMA CGM SA.

By: 

Name:

R SAADE

Title:

CMA CGM S.A.

By: \_\_\_\_\_

Name:

Title:

HSDG/ALIANÇA/CMA CGM Space Charter Agreement  
FMC Agreement No. 011972

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be  
executed by their duly authorized representatives as of this 31<sup>st</sup> day of July, 2006.

HAMBURG SÜDAMERIKANISCHE DAMPFSCHEIFFFAHRTS-  
GESELLSCHAFT KG

By: \_\_\_\_\_

Name:

Konrad

SCHNITZ

Title:

Director

DIRECTOR

ALIANÇA NAVEGAÇÃO E LOGÍSTICA LTDA. E CIA

By: \_\_\_\_\_

Name:

J. Thomas

Title:

Director

M. SOJEMHL

DIRECTOR

CMA CGM S.A.

By: \_\_\_\_\_

Name:

Title: